
**Insurance, Financial Services &
Consumer Protection Committee**

HB 1491

Brief Description: Creating the insurance fair conduct act.

Sponsors: Representatives Kirby, Campbell, Simpson, Hurst, Appleton, Williams, Wood, Santos, Chase, Ormsby and Morrell.

Brief Summary of Bill

- Prohibits the unfair practice of an insurer unreasonably or negligently denying a claim for coverage or payment of benefits to any insured.
- Requires a court to award actual damages sustained, together with the costs of the action, including reasonable attorneys' fees and litigation costs if an insurer unreasonably or negligently denied a claim or has violated the Washington Administrative Code.
- Allows a court to award triple the actual damages sustained if an insurer unreasonably or negligently denied a claim or has violated the Washington Administrative Code.

Hearing Date: 2/1/07

Staff: Jon Hedegard (786-7127).

Background:

The Insurance Commissioner (Commissioner) oversees the insurance business in this state. The Commissioner reviews rates and policy forms. The Commissioner conducts financial examinations and reviews fiscal information to ensure solvency. The Commissioner performs market conduct examinations to ensure compliance with laws regarding claims practices, marketing, sales, rates, forms, and underwriting.

Consumer Protection Act

The Washington Consumer Protection Act (CPA) declares that unfair and deceptive practices in trade or commerce that harm the public interest are illegal. The CPA gives the Office of the

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Attorney General the authority to bring lawsuits against businesses, and to ask the court for injunctions and restitution for consumers. It also allows individuals to hire their own attorneys to bring consumer protection lawsuits. If the consumer wins in court, the law allows the court to award triple the amount of actual damages, up to \$10,000, as well as attorney's fees.

Unfair insurance practices

Chapter 48.30 RCW includes specific practices that the Legislature has determined to be unfair or deceptive practices. The Commissioner has the authority rules to prohibit unfair or deceptive practices. These rules are primarily found in Chapter 284-30 WAC and are generally categorized as either unfair claims settlement practices or unfair trade practices.

Violations of the statutes and rules can be punished by fine by the Commissioner. The Commissioner may also issue a cease and desist order.

Violations of provisions of the unfair practice statutes and rules have been held to be violations of the CPA.

Summary of Bill:

"Insured" is defined as "any individual, company, insurer, association, organization, reciprocal or interinsurance exchange, partnership, business trust, corporation, or other entity that has purchased insurance, and including any direct or third-party beneficiary to a policy of insurance issued to any insured."

An insurer may not unreasonably or negligently deny a claim for coverage or payment of benefits to any insured.

Any insured or beneficiary who is unreasonably or negligently denied a claim for coverage or payment of benefits by an insurer may bring an action in the superior court to recover the actual damages sustained, together with the costs of the action, including reasonable attorneys' fees and litigation costs.

If the insurer has acted unreasonably or negligently in denying a claim for coverage or payment of benefits or has violated the Washington Administrative Code, the superior court must award reasonable attorneys' fees and actual and statutory litigation costs, including expert witness fees, to the insured or any beneficiary of an insurance contract.

If the insurer has acted unreasonably or negligently in denying a claim or has violated the Washington Administrative Code, the superior court may increase the total award of damages to an amount not to exceed three times the actual damages.

The remedies are separate from the remedies prescribed in the Consumer Protection Act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.